

REMARKS

Reconsideration and withdrawal of the objections to and rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance or into better condition for appeal.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1, 2 and 3 are cancelled and new claims 4 and 5 are added by these amendments.

No new matter is added by this amendment.

II. STATUS OF DRAWINGS

Applicant erroneously labeled the original drawings with two Figure 9. The second original Figure 9 has now been relabeled as FIG. 7 and the FIG. 7 as filed has now been deleted.

In the "Brief Description of the Drawings" section of page 4 of the disclosure, the original description of "FIG. 3 and FIG. 3_B" has been replaced with "FIG. 3 and FIG. 3A".

No new matter is added by this amendment.

III. 35 U.S.C. §102 REJECTIONS

Claim 1 was rejected under 35 U.S.C. §102(b) as being anticipated by Goode, Jr. ("Goode").

Applicant respectfully submits that Goode does not teach nor disclose the claimed inventive feature of the present invention, namely the interchangeable scarper or a creaser wheel which can be demountably fastened to an arm extending from the hub which is operatively connected between the pair of rotatable tape applicator wheels provided in the invention.

The Examiner's interpretation that Goode's teaches or suggests "a flexible scraper, 38" for wiping flat surfaces (column 3, lines 22-58) is, in Applicant's respectful opinion, incorrect. Indeed, blade 38 (as it was referred to by Goode) "... is of such width and shape as to enable the pressing of the tape into tight relation with the wallboard, so as to form a smooth joint." (column 3, lines 59-63)(emphasis added) In the present invention, the pressing action of the tape against the wallboard is not achieved by the interchangeable scraper, but by the two freely rotating wheels 47 and 48: "... The wheels are arranged to press the adhesive coated tape onto wallboard." (page 12, second para.)

Goode failed to teach the intended function of the interchangeable scraper, which is "provided to scrape excess dry wall compound (mud) in one motion as it is applied from underneath the dry wall tape." (page 20, second para.)

More importantly, blade 38 of the Goode machine is intended to regulate the amount of mud being released from the reservoir. Goode explained how blade 38 is pressure sensitive and how spring pressure (being applied to the blade 38) controls the amount of mud being released on the drywall tape (column 4, lines 15 to 44): "...As greater pressure is applied to the blade, the elongated slot is uncovered to a greater degree, which will permit a larger amount of mud to flow therefrom, and likewise, as the pressure is released, the mud flow will be decreased, or upon release of all pressure to the blade 38, the flow of mud will be closed off". Accordingly, Applicant respectfully submits that the blade 38 in Goode teaches away from the scraper of the present invention.

Based on the foregoing understanding, Applicant failed to see how an angled blade could work in Goode without having its operational mechanism clearly explained in the patent disclosure. Applicant was unable to extrapolate from the short paragraph in column 4, lines 44 to 49 of Goode how the spring pressure can be applied to an angled blade and still perform the intended function of regulating the mud flow. Accordingly, Applicant does not believe that the Goode blades are functionally interchangeable.

In view of the foregoing differences, Applicant submits that it is patentably distinguishable from the blade 38 in Goode. Applicant believes that amended new claims 4 and 5 are patentably distinguishable from Goode.

IV. 35 U.S.C. §103 REJECTIONS

Claim 2 was rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over Goode, Jr. ("Goode") in view of Altmix.

Altmix discloses a flat pressure roller 18 and a second generally V-shaped or convex roller 20 for the purpose of applying pressure against the tape along wallboard corners. Clearly, the purpose of these rollers is not for wiping excessive mud, as allegedly suggested by the Examiner. The only intended purpose of these rollers is for affixing the tap firmly against the wallboard on either flat surface or corners.

As stated earlier, the scraper and creaser wheel of the present invention is not designed for pressing against the tape but, rather, for removing excessive mud from tape application. The two freely rotating wheels 47 and 48 are used for the tape pressing action.

In view of the foregoing differences, Applicant respectfully submits that it is patentably distinguishable from the teachings of Altmix relied upon by the Examiner.

Further, even assuming that the references taught what the Examiner alleges, it is well settled that there must be some prior art teaching which would have provided the necessary incentive or motivation for modifying the reference teachings. *In re Laskowski*, 12 U.S.P.Q. 2d 1397, 1399 (Fed. Cir. 1989); *in re Obukowitz*, 27 U.S.P.Q. 2d 1063 (BOPAI 1993). Further, "obvious to try" is not the standard under 35 U.S.C. §103. *In re Fine*, 5 U.S.P.Q. 2d 1596, 1599 (Fed. Cir. 1988). And as stated by the Court in *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1783-1784 (Fed. Cir. 1992): "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggests the desirability of the modification." Also, the Examiner is respectfully reminded that for the Section 103 rejection to be

proper, both the suggestion of the claimed invention and the expectation of success must be founded in the prior art, and not Applicant's disclosure. *In re Dow*, 5 U.S.P.Q. 2d 1529, 1531 (Fed. Cir. 1988).

It is respectfully submitted that the Examiner has failed to provide any motivation or expectation of success in combining the teachings as suggested in the rejection. Thus, applying the law to the instant facts, the Examiner's obviousness rejection is fatally defective and should be withdrawn.

Consequently, reconsideration and withdrawal of the Section 102 and 103 rejections are believed to be in order and such actions are respectfully requested.

CONCLUSION

By this Amendment, the claims should be allowed. Favorable reconsideration of the application, withdrawal of the rejections and objections, and prompt issuance of the Notice of Allowance are, therefore, all earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, reading "Charles R.J. Boutin", written in black ink. The signature is fluid and stylized, with a long horizontal flourish extending to the right.

CHARLES R.J. BOUTIN